<u>REMARKS</u>

The undersigned respectfully requests that the Examiner reconsider the application in light of the foregoing amendment and the following remarks.

<u>The Specification Satisfies the Written Description Requirement</u>

In the final Office Action dated January 6, 2009, the Examiner rejected claims 1, 3-13 and 15-25 under 35 U.S.C. § 112, first paragraph and alleged that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. As previously argued in the response filed March 6, 2009, the application as filed describes the cited elements. Response dated March 6, 2009, pages 7-8. In the Advisory Action the Examiner stated that "the specific teaching" of claims 1, 3-13, and 15-25 "is not disclosed in the specification and further lacks support."

Newly added claim limitations can be supported in the specification through express, implicit or inherent disclosure. There is no *in haec verba* requirement. MPEP 2163. The rejection under 35 U.S.C. § 112, first paragraph erroneously imposes an *in haec verba* requirement. However, in an effort to move prosecution of this application forward, the claims have been amended to clarify the invention. Support for the amendments is found at least in the language of the originally filed claims and on page 12 of the specification.

<u>Allen Does Not Describe a Control Program or a Microprogram</u>

Claim 1 requires that the control functionality is *directed by a control program received from a host and locally stored on the system,* claim 12 requires control signals which are controlled by a *microprogram previously received from the host,* and claim 20 requires "control signals which are controlled by a *control program received from the host.*" (*emphasis* added).

The Examiner continues to assert that Allen describes a control program received from the host. The Advisory Action stated that "Allen clearly teaches a control program received from a host which controls and combines content and transmits as transport stream

packets to subscribers." The sections of Allen cited to support this statement describe providing local content without any description of how it is provided or describe using cue tones to indicate when the local content should be inserted. *See* Response to Office Action dated July 11, 2008, pages 8-9; submission accompanying an RCE filed April 8, 2008, pages 8-9. Neither the Office Action nor the Advisory Action addresses the arguments made in the prior responses distinguishing the claimed control program from the cue tones described by Allen. The Actions simply assert that a cue tone describes a control program.

Allen describes switching between national and local advertisements based on cue tones and describes at Column 17, lines 43-50 that:

> The time of occurrence of each break is generally indicated by the cue tone signal delivered as part of the national network feed signal. Accordingly it is necessary to provide the local cable programmer with the capability of alternately selecting multiple sources of program information to thereby substitute local advertisements in place of national advertisements, in consonance with the cue tone indications, at the discretion of the local programmer.

The cue tones of Allen do not provide the same function as the claimed control program. The control program controls the control functionality/control signals that create new content. A cue tone does not create new content. It merely indicates a point in time within the network feed, such as the start of a pre-roll period, the start of the transfer to ad interval, and the end of the interval, to facilitate the substitution of existing content.

Claim 1 requires that the control program is received from the host and that it is locally stored on the system. A cue tone is "delivered as part of the national network feed signal" and is not stored. Claim 12 requires processing and decoding content signals based on a microprogram that was previously received from the host. A cue tone indicates a point in time, such as the start or the end of a period and is used upon receipt. Claim 20 requires a control program received from the host. A cue tone is not a program, but a timing indicator.

Claim 25 depends from claim 12 and requires that the microprogram is received from the host asynchronously from the first digital content signal. In rejecting claim 25, the

Examiner cited Column 30, line 13-Column 31, line 1+ of Allen. The cited section of Allen is contrary to the Examiner's argument since it describes that "[e]ach channel of the network feed will include cue tones." Column 30, lines 44-45. Allen describes that the cue tones are received synchronously with the network feed and thus, teaches away from claim 25.

The distinction between a cue tone and a control program is clear and has been argued in previous response. However, instead of responding to the arguments, the Examiner merely continues to recite sections of Allen that describe a cue tone. In light of the foregoing, the cue tone of Allen does not describe the claimed control program and the rejection based on Allen should be withdrawn.

Claims 12 and 20 further require combining a video frame from the decoded first digital content signal and a video frame from said second content signal as the new content. The Examiner alleged that Allen describes "a data distribution system which receives content (video, audio, graphical and textual data) and combines or encodes locally stored content video, graphical, and/or textual data) and transmits in accordance with a schedule." Although Allen describes switching between national and local content based on cue tones, Allen does not describe combining a frame from the national content with a frame from the local content to create new content.

Claims 3-11, 23 and 24 depend from claim 1, claims 13, 15-19 and 25 depend from claim 12 and claims 21-22 depend from claim 20. The dependent claims are patentable over Allen for at least the same reasons as the independent claims.

REQUEST FOR INTERVIEW

The undersigned will contact the Examiner to schedule a telephone interview and respectfully requests that if the Examiner is ready to examine this application prior to the scheduling of the interview that the Examiner contact the undersigned so that the interview can be conducted prior to further examination of the application.

CONCLUSION

The foregoing is submitted as a complete response to the Office Action identified above. This application should now be in condition for allowance, and the Applicants solicit a notice to that effect. If there are any issues that can be addressed via telephone, the Examiner is asked to contact the undersigned at 404.685.6799.

Respectfully submitted,

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